Statement on Introduction of

Continuing Chemical Facilities Antiterrorism Security Act of 2011

Senator Susan M. Collins

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Mr. President. The law granting the federal government – for the first time – the authority to regulate the security of the nation's highest risk chemical facilities is due to expire on March 18. We cannot allow this to occur. Given the success of this law and its vital importance to all Americans, I am introducing legislation today with Senators Pryor, Portman, and Landrieu to extend and improve the law.

More than 70,000 products are created through the use of chemicals, helping to supply the consumer, industrial, construction, and agricultural sectors of our economy. The United States is home to thousands of facilities that manufacture, use, or store chemicals.

This industry is vital to our economy, with annual sales of $725 billion, exports of $171 billion, and more than 780,000 employees.

After September 11, 2001, we realized that chemical facilities were vulnerable to terrorist attack. Given the hazardous chemicals present at many locations, terrorists could view them as attractive targets, yielding loss of life, significant injuries, and major destruction if successfully attacked.

In 2005, as Chairman of the Senate Homeland Security and Governmental Affairs Committee, I held a series of hearings on chemical security. Following these hearings, Senators Lieberman, Carper, Levin, and I introduced bipartisan legislation authorizing the Department of Homeland Security to set and enforce security standards at high-risk chemical facilities. That bill was incorporated into the homeland security appropriations act that was signed into law in 2006.

To implement this new authority, DHS established the Chemical Facility Anti-Terrorism Standards program, or CFATS. The program sets 18 risk-based performance standards that high-risk chemical facilities must meet. These security standards cover a range of threats, such as perimeter security, access control, theft, internal sabotage, and cyber security.

High-risk chemical facilities covered by the program must conduct mandatory vulnerability assessments, develop site security plans, and invest in protective measures.

The Department must approve these assessments and site security plans, using audits and inspections to ensure compliance with the performance standards. The Secretary has strong authority to shut down facilities that are non-compliant.

This risk-based approach has made the owners and operators of chemical plants partners with the federal government in implementing a successful, collaborative security program.

This landmark law has been in place slightly more than four years. Taxpayers have invested nearly $300 million in the program, and chemical plants have invested hundreds of millions more to comply with the law. As a direct result, security at our nation's chemical facilities is much stronger today.

Now we must reauthorize the program. Simply put, the program works and should be extended.

Changing this successful law, as was proposed last year by the House of Representatives in partisan legislation, would discard what is working for an unproven and burdensome plan.

We must not undermine the substantial investments of time and resources already made in CFATS implementation by both DHS and the private sector. Worse would be requiring additional expenditures with no demonstrable increase to the overall security of our nation.

In the 111th Congress, the Senate and the House of Representatives debated a provision that would alter the fundamental nature of CFATS. The provision would have required the Department to completely rework the program. It would have mandated the use of so-called "inherently safer technology," or IST.

What is IST? It is an approach to process engineering. It is not, however, a *security* measure.

An IST mandate may actually *increase* or unacceptably *transfer* risk to other points in the chemical process or elsewhere in the supply chain.

For example, many drinking water utilities have determined that chlorine remains their best and most effective drinking water treatment option. Their decisions were not based solely on financial considerations, but also on many other factors, such as the characteristics of the region's climate, geography, and source water supplies, the size and location of the utility's facilities, and the risks and benefits of chlorine use compared to the use of alternative treatment processes.

According to one water utility located in an isolated area of the northwest United States, if Congress were to force it to replace its use of gaseous chlorine with sodium hypochlorite, then the utility would have to use as much as seven times the current quantity of treatment chemicals to achieve comparable water quality results. In turn, the utility would have to arrange for many more bulk chemical deliveries, by trucks, into a watershed area. The greater quantities of chemicals and increased frequency of truck deliveries would heighten the risk of an accident resulting in a chemical spill into the watershed. In fact, the accidental release of sodium hypochlorite into the watershed would likely cause greater harm to soils, vegetation, and streams than a gaseous chlorine release in this remote area.

Currently, DHS cannot dictate specific security measures, like IST. Nor should it. The federal government should set performance standards, but leave it up to the private sector to decide precisely how to achieve those standards.

Forcing chemical facilities to implement IST could cost jobs at some facilities and affect the availability of many vital products.

Last year, the Society of Chemical Manufacturers and Affiliates testified that mandatory IST would restrict the production of pharmaceuticals and microelectronics, hobbling these industries. The increased cost of a mandatory IST program may force chemical companies to simply transfer their operations overseas, costing American workers thousands of jobs.

To be clear, some owners and operators of chemical facilities may *choose* to use IST. But that decision should be theirs – not Washington's. Congress should not dictate specific industrial processes under the guise of security when a facility could choose other alternatives that meet the nation's security needs.

Last July, the Homeland Security Committee unanimously approved bipartisan legislation I authored with Senators Pryor, Voinovich, and Landrieu to extend CFATS for three more years.

Additionally, the bill would have established voluntary exercise and training programs to improve collaboration with the private sector and state and local communities under the CFATS program; created a voluntary technical assistance program; and created a chemical facility security best practices clearinghouse and private sector advisory board at DHS to assist in the implementation of CFATS.

Today, along with Senators Pryor, Portman, and Landrieu, I am reintroducing this bill. The "Continuing Chemical Facilities Antiterrorism Security Act of 2011" is a straight-forward, common-sense reauthorization of the CFATS program.

I am conscious of the risks our nation faces through an attack on a chemical facility. That is why I authored this law in the first place and battled considerable opposition to get it enacted. We should support the continuation of this successful security program without the addition of costly, unproven federal mandates. I urge my colleagues to support this important bill.

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